

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1158**

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**Introduced by Assembly Member Campos**

February 27, 2015

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An act to amend Section 21183 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

AB 1158, as amended, Campos. Jobs and Economic Improvement Through Environmental Leadership Act of 2011: prevailing wage.

Existing law establishes the Division of Labor Standards Enforcement in the Department of Industrial Relations for the enforcement of labor laws, including wage claims. Existing law ~~assesses specified civil penalties on employers who fail to pay their employees minimum wages.~~ *generally requires that not less than the general prevailing rate of per diem wages, as specified, be paid to workers employed on a public work, as defined. Existing law requires a contractor or subcontractor to forfeit to the state or political subdivision on whose behalf a public work is being performed a penalty, as provided and determined by the Labor Commissioner, for violations of these prevailing wage provisions.*

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to

prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 authorizes the Governor, until January 1, 2016, to certify projects for certain CEQA streamlining benefits if the project meets certain conditions, including a condition that the project creates high-wage, highly skilled jobs that pay prevailing wages. Existing law requires the applicant of a project that is so certified to include this wage condition in all contracts for the performance of work for the project.

This bill would specify that the above wage condition is subject to enforcement by the Division of Labor Standards Enforcement. The bill would make a project applicant who fails to pay, or fails to ensure the payment of, prevailing wages subject to the ~~civil~~ penalties for failure to pay ~~minimum~~ prevailing wages on a public work.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 21183 of the Public Resources Code is
- 2 amended to read:
- 3 21183. The Governor may certify a leadership project for
- 4 streamlining pursuant to this chapter if all the following conditions
- 5 are met:
- 6 (a) The project will result in a minimum investment of one
- 7 hundred million dollars (\$100,000,000) in California upon
- 8 completion of construction.
- 9 (b) (1) The project creates high-wage, highly skilled jobs that
- 10 pay prevailing wages and living wages and provide construction
- 11 jobs and permanent jobs for Californians, and helps reduce
- 12 unemployment. For purposes of this subdivision, “jobs that pay
- 13 prevailing wages” means that all construction workers employed
- 14 in the execution of the project will receive at least the general
- 15 prevailing rate of per diem wages for the type of work and

1 geographic area, as determined by the Director of Industrial  
2 Relations pursuant to Sections 1773 and 1773.9 of the Labor Code.  
3 If the project is certified for streamlining, the project applicant  
4 shall include this requirement in all contracts for the performance  
5 of the work.

6 (2) The condition set forth in paragraph (1) is a labor standard  
7 subject to enforcement pursuant to Chapter 4 (commencing with  
8 Section 79) of Division 1 of the Labor Code.

9 (3) A project applicant who fails to pay prevailing wages or  
10 fails to ensure that prevailing wages are paid, as required pursuant  
11 to paragraph (1), is subject to the civil penalties set forth in Section  
12 ~~1197.1~~ 1775 of the Labor Code.

13 (c) The project does not result in any net additional emission  
14 of greenhouse gases, including greenhouse gas emissions from  
15 employee transportation, as determined by the State Air Resources  
16 Board pursuant to Division 25.5 (commencing with Section 38500)  
17 of the Health and Safety Code.

18 (d) The project applicant has entered into a binding and  
19 enforceable agreement that all mitigation measures required  
20 pursuant to this division to certify the project under this chapter  
21 shall be conditions of approval of the project, and those conditions  
22 will be fully enforceable by the lead agency or another agency  
23 designated by the lead agency. In the case of environmental  
24 mitigation measures, the applicant agrees, as an ongoing obligation,  
25 that those measures will be monitored and enforced by the lead  
26 agency for the life of the obligation.

27 (e) The project applicant agrees to pay the costs of the ~~Court~~  
28 ~~court of Appeal~~ *appeal* in hearing and deciding any case, including  
29 payment of the costs for the appointment of a special master if  
30 deemed appropriate by the court, in a form and manner specified  
31 by the Judicial Council, as provided in the Rules of Court adopted  
32 by the Judicial Council pursuant to ~~subdivision (f) of~~ Section  
33 21185.

34 (f) The project applicant agrees to pay the costs of preparing  
35 the administrative record for the project concurrent with review  
36 and consideration of the project pursuant to this division, in a form  
37 and manner specified by the lead agency for the project.

38 SEC. 2. This act is an urgency statute necessary for the  
39 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the Constitution and shall go into  
2 immediate effect. The facts constituting the necessity are:  
3 To ensure that workers on a project certified by the Governor  
4 as an environmental leadership development project receive the  
5 prevailing wage appropriate for the type of work performed, as  
6 required pursuant to Chapter 6.5 (commencing with Section 21178)  
7 of Division 13 of the Public Resources Code, it is necessary for  
8 this measure to take effect immediately.

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